

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 54, “Restrictions on Introduction and Removal of Plant Life,” Iowa Administrative Code.

The proposed amendments will allow dock permittees more flexibility in removing aquatic vegetation without a permit around boat docks and when creating boating pathways to open water. Recent efforts by the Department of Natural Resources (Department) to improve water quality have been very successful, and much of this success is due to the Department’s Lake Restoration Program. Clear water is a benefit of improved water quality, but it may result in the growth of dense-rooted aquatic plant life. Lake users are very pleased with lake restoration efforts and the good water clarity that results from those efforts. However, some dock permittees, including private individuals as well as cities and counties, are faced with excessive growth of rooted aquatic plants around boat docks and in pathways to open water. The Department has received complaints from dock permittees requesting that action be taken to streamline the process for removing such vegetation.

These proposed amendments are intended to give dock permittees additional justification to remove aquatic vegetation without a permit, thereby reducing the Department’s administrative time in reviewing and issuing such permits, and to remove the vegetation in a manner that does not harm water quality or aquatic life.

Any person may submit written suggestions or comments on the proposed amendments through September 4, 2014. Such written material should be submitted to Martin Konrad, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by e-mail to Martin.Konrad@dnr.iowa.gov. Persons who have questions may contact Martin Konrad by e-mail or by telephone at (515)281-6976.

Also, two public hearings where persons may present their views orally or in writing will be held as follows:

August 28, 2014	6 p.m.	DNR Wildlife Station Balsam Avenue Ventura, Iowa
September 4, 2014	1:30 p.m.	Wallace State Office Building Conference Room 4W 502 E. 9th Street Des Moines, Iowa

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and request specific accommodations.

After analysis and review of this rule making, no impact on jobs should result.

These amendments are intended to implement Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41.

The following amendments are proposed.

ITEM 1. Amend subrule 54.5(1) as follows:

54.5(1) Permits.

a. The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.

ITEM 2. Amend subrule 54.5(5) as follows:

54.5(5) Exceptions.

~~a. Activities accomplished by the department or its agents to introduce or remove aquatic vegetation in public waters shall be deemed appropriate and shall not be subject to the permit requirements of this rule provided the activity is in the public interest and the activity does not constitute one of the prohibited activities described in 571—subrule 13.6(2). A dock permittee whose dock meets rule 571—16.4(461A,462A), 571—16.6(461A,462A), or 571—16.7(461A,462A) may remove aquatic vegetation without a permit if the aquatic vegetation:~~

- ~~(1) Creates a hazardous or detrimental condition in the boating area around the dock, or~~
- ~~(2) Covers a minimum of 75 percent of the boating area around the dock.~~

~~b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.~~

b. A dock permittee meeting one of the exceptions in paragraph 54.5(5)“a” must verify at inspection that the dock meets the criteria for a Class I, Class II or Class III dock permit and is limited to the following:

- (1) Removal of vegetation in a 20-foot radius around the dock;
- (2) Removal of a hazardous or detrimental condition when it interferes with safe boating passage and is located within the boating area around the dock;
- (3) Creation of a 15-foot-wide boating pathway utilizing a direct route from the dock to open water;
- (4) Adherence to the requirement to leave the vegetation in place or collect and compost it on land that is owned, leased or otherwise subject to use by the dock permittee and is adjacent to the removal area;

(5) Removal of the vegetation by hand-cutting, hand-pulling, hand-raking or mechanical cutting devices, excluding automated plant control devices that disturb the bottom substrate.

c. Aquatic vegetation located in public waters may be removed by persons without a permit under this rule only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental activity. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed an unauthorized action resulting in damage to public waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard or detrimental condition and provide written authorization to proceed or shall require the person to apply for a permit under this rule.